



January 8, 2016

The Honorable Charles R. Breyer  
United States District Court  
450 Golden Gate Avenue  
San Francisco, CA 94102

**Re: *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672 CRB (JSC)***

Dear Judge Breyer:

I respectfully apply for a steering committee position in this litigation.

**My Law Firm and I Regularly Achieve Exemplary Verdicts against Corporations for Their Intentional and Deceitful Misconduct**

My law firm, Schlesinger Law Offices, P.A., of which I am principal partner, has helped shape tort law through trials and appellate arguments, federally and in many states, at every judicial level, including the United States Supreme Court. For over 30 years I have represented plaintiffs injured by the wrongful conduct of others and have personally tried approximately 75 complex personal injury, death, and consumer rights cases. In the last five years, my firm has achieved over a dozen multimillion dollar verdicts.

Since 1956, my firm has been at the forefront in prosecuting complex cases involving some of the most egregious corporate misconduct. For example, we achieved the nation's first plaintiff's verdict against Toyota; and we recovered one of the highest judgments General Motors paid for knowingly failing to fix their vehicles' susceptibility to fuel-fed fires. My firm helped make the State of Florida whole in an \$11 billion settlement with the tobacco industry. We also regularly obtain large compensatory and punitive damages verdicts against tobacco companies on behalf of individuals injured or killed by tobacco-related illnesses.

Our role in litigating against the major tobacco companies, in particular, makes us uniquely qualified to lead this case. The similarities between Volkswagen's and the tobacco companies' misdeeds are significant. Both engaged in a conspiracy to defraud consumers and public authorities, and both used predatory marketing and advertising campaigns to victimize consumers.

My law firm and I are effective because we understand and fight to realize every case's true value. As the Court noted at the status conference, determining the value of the affected cars is paramount in this MDL. I would add, however, that quantifying Volkswagen's misdeeds demands more than just mathematically modeling the diminished value of each vehicle. Given the enormity of Volkswagen's fraud, "value" in this case depends on aggressively seeking punitive damages against Volkswagen. Maximizing a client's recovery through an award of punitive damages where appropriate is a trial lawyer's role, and a role that my firm has played for nearly 60 years.

My firm has been retained by 552 affected Volkswagen purchasers and lessees throughout the U.S. We have filed five cases, consolidated in this MDL, on behalf of our clients. We were the first to file in the Southern District of Florida; we filed two cases in the District of Columbia; one case in the Southern District of New York; and one case in the District of New Jersey. We were also the first firm to plead a RICO count in these Volkswagen cases. Overall, my and my firm's experience match the needs of the class in this litigation.

**I am Knowledgeable and Experienced in Prosecuting Complex Litigation**

a. Auto Defect Litigation:

Lead Counsel in a class action against Toyota defendants based on a defective airbag system in the 2007 Lexus ES 350. I obtained class certification, successfully argued evidentiary *Daubert* motions, conducted settlement negotiations, and oversaw the national settlement program. Upon settlement, Judge William P. Dimitrouleas remarked that the settlement would save lives. *Rosen v. J.M. Auto Inc., et al.* 07-cv-61234 (S.D. Fla.)

b. Environmental and Toxic Tort Litigation:

Lead Counsel, representing approximately 700 Florida residents, in an action seeking class certification for damages resulting from the defendant's pollution of the aquifer shared by the class. *Adinolfe et al. v. United Technologies Corp. d/b/a Pratt & Whitney*, No. 10-cv-80840-KLR (S.D. Fla.)

c. Tobacco and Fraud Litigation:

Lead Trial Counsel in dozens of *Engle progeny* cases, in which we represented and continue to represent hundreds of plaintiffs injured or killed by tobacco related illnesses. We have, as recently as July 2015, obtained numerous multimillion dollar compensatory and punitive damages verdicts including verdicts of \$75 million, \$38 million and \$35 million. My firm was selected as Liaison Counsel in Broward County, Florida to coordinate efforts among plaintiff and defense counsel in this large and complex class of cases. *In re Engle Progeny Cases Tobacco Litigation*.

My firm was Co-Lead Counsel and Member of the "Peoples' Trial Advocates" selected by the Governor of the State of Florida to represent the State against the tobacco industry to recover health care costs for treating diseases of Medicaid smokers. This litigation achieved an \$11 billion settlement for the State. *State of Fla., et al. v. American Tobacco Co., et al.*, No. CL 95-1466 AH. 15th Jud. Cir. Fla.

We also successfully represented plaintiffs and obtained a multimillion dollar compensatory and punitive damages award in a malicious prosecution case, where the insurance company falsely accused the plaintiffs of committing insurance fraud. *Custom Wood Creations, Inc. v. FCCI Commercial Ins. Co.*, No. 08-051774, 17th Jud. Cir. Fla.

d. Defective Pharmaceutical and Medical Device Litigation:

Co-lead Counsel in the "second generation" blood factor contamination cases. We represented over 1,000 South American plaintiffs who contracted HIV and/or Hepatitis C from contaminated and defective blood factor products produced by defendant pharmaceutical companies. *In re Factor VIII or IX Concentrate Blood Products Liability Litigation*, MDL No. 986 (N.D. Ill.)

**Names and Contact Information of Judges in the Cases Discussed Above**

Hon. William P. Dimitrouleas, U.S.D.J., 299 East Broward Blvd., Ft. Lauderdale, FL 33301,  
954-769-5650

Hon. Kenneth L. Ryskamp, U.S.D.J., 701 Clematis Street, West Palm Beach, FL 33401,  
561-803-3420

Hon. John J. Murphy III, 17th Jud. Cir., 201 SE 6th Street, Ft. Lauderdale, FL 33301,  
954-831-1648

Hon. John M. Radabaugh, 255 North Broadway, Bartow FL 33830,  
863-534-6963

Hon. John F. Grady (Ret.), U.S.D.J., 219 S. Dearborn Street, Chicago, IL 60604  
312-435-5670

**I am Willing and Able to Commit to this Time-Consuming Litigation,  
and Have the Resources to Prosecute the Litigation**

My firm will commit the financial resources necessary to prosecute this litigation in a timely and effective manner. We will fund this MDL directly and not rely on investors. My firm has the skilled trial attorneys, legal experience, and support staff needed to diligently prosecute this significant litigation. My substantial experience in complex litigation and class actions allows me to appreciate the amount of time that must be committed to this case to lead it effectively. The enormity of this litigation demands leadership who will commit to transparency, efficiency, and cost-effectiveness. I am ready to make the necessary commitment.

**I am Willing and Able to Work Cooperatively with Counsel**

Plaintiffs' counsel must be able to work cooperatively in complex multi-party litigation. My firm would not have the success it enjoys without its demonstrated willingness and ability to work well with co-counsel and opposing counsel. Going back decades in some instances, my firm has enjoyed working on other cases with a number of firms that represent Volkswagen owners or lessees in this matter. For example, my firm co-led the second generation *Blood Products Liability Litigation* with Lieff Cabraser. My firm teamed with Motley Rice (then Ness Motley) and Levin Papantonio in the tobacco litigation on behalf of the State of Florida. Along with Levin Papantonio, we also work with Seeger Weiss and Girardi Keese in the pharmaceutical products liability case *In re Accutane Litig.*, Case No. 271 (N.J. Sup. Ct.).

My firm's ability to work with others is demonstrated in this litigation as well. We have coordinated our efforts with Meyer Glitzenstein & Eubanks, LLP, Kopelwitz Ostrow Ferguson Welsberg Gilbert, Criden & Love, P.A., and the Nussbaum Law Group, P.C.

In short, if appointed to serve on the steering committee, I will bring the experience, vigor, resources and leadership needed to effectively help coordinate the legal team and guide the prosecution of this complex, multi-district case on behalf of all the plaintiffs. I will be happy to discuss my and my firm's qualifications at the January 21, 2016, conference.

Respectfully submitted,

Scott P. Schlesinger